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Supreme Court, U.S.
FILED

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No. (2) OFFICE OF THE CLERK

In The

Supreme Court of the United States

NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division
Petitioner,

v.

RONALD CURTIS CHAMBERS,
Respondent.

On Petition For Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

APPENDIX

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APPENDIX I

FILED December 27, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-11248

Ronald Curtis Chambers,

Petitioner - Appellant

v.

Nathaniel Quarterman, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent-Appellee

Appeal from the United States District Court
for the Northern District of Texas
(99-CV-1283)

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before JOLLY, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

This court previously affirmed the district court's denial of Ronald Chambers's petition for a writ of habeas corpus. *Chambers v. Quarterman*, 191 F. App'x 290 (5th Cir. 2006). The Supreme Court vacated and remanded the case for further consideration in the light of *Abdul-Kabir v. Quarterman*, 127 S.Ct. 1654 (2007).

Upon reconsideration in the light of *Abdul-Kabir*, we conclude that Chambers's mitigating evidence of his exposure to violence and drugs, his lack of role models, and his lack of economic opportunity while being raised in the projects of west Dallas, had, in the view of five members of the Supreme Court, relevance to a reasoned moral judgment in imposing the death penalty, which evidence could not be given meaningful effect in answering the special issues on deliberateness and future dangerousness.[1] On the one hand, this evidence set out

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[1] The State is absolutely correct in its argument that Chambers's punishment phase defense was premised entirely on the lack of future dangerousness. In closing argument, Chambers's counsel argued that the evidence of Chambers's upbringing in a depressed, crime-infested neighborhood, along with the other mitigating evidence Chambers presented, supported a "no" answer to the special issue on future dangerousness. As the State correctly notes, there was very scant evidence of his upbringing in the ghetto, and the overwhelming focus of the testimony of all of Chambers's witnesses was on his positive character traits. Nevertheless, Chambers's counsel was constrained by the sentencing instructions and special issues, which narrowed the jury's focus to the issues of deliberateness and future dangerousness. Therefore, Chambers

above is not properly considered as rebuttal evidence to future dangerousness, and instead could be viewed as aggravating evidence because jurors might find that it made him more likely to commit acts of violence in the future than a defendant who came from a more stable environment. Yet, on the other hand, a properly instructed jury could have concluded that Chambers was less morally culpable for his crime because of his disadvantaged upbringing and would have had no means, under the deliberateness and future dangerousness instructions, of giving the evidence such effect. Thus, there is a reasonable likelihood that the instructions to the sentencing jury prevented the jurors from giving meaningful consideration and effect to that evidence. Furthermore, the state habeas court unreasonably applied clearly established federal law, as determined by the Supreme Court, when it concluded that the "nullification" instruction, which directed jurors to answer at least one of the special issues "no" if they found that a life sentence rather than a death sentence was an appropriate response to Chambers's personal moral culpability, allowed the jury to consider and give effect to

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cannot be penalized because his counsel did not specifically argue that Chambers was less morally culpable as a result of his disadvantaged upbringing.

his mitigating evidence. Accordingly, we REVERSE the judgment of the district court denying habeas relief, and REMAND with instructions to grant the writ and require a resentencing of Chambers within a reasonable time to be determined by the district court.[2]

REVERSED and REMANDED with instructions.

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[2] Our prior opinion affirming the denial of habeas relief on Chambers's remaining claims is reinstated.

APPENDIX II

IN THE UNITED STATES SUPREME COURT

No. 06-7263

Ronald Curtis Chambers,

Petitioner - Appellant

v.

Nathaniel Quarterman, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent-Appellee

Appeal from the United States District Court
for the Northern District of Texas

April 30, 2007, Decided

JUDGES: Roberts, Stevens, Scalia, Kennedy, Souter, Thomas, Ginsburg, Breyer, Alito.

OPINION

On petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit. Motion of petitioner for leave to proceed in forma pauperis and petition for writ of certiorari granted. Judgment vacated, and case remanded to the United States Court of Appeals for the Fifth Circuit for further consideration in light of *Abdul-Kabir v. Quarterman*, 550 U.S. , 127 S. Ct. 1654,

167 L. Ed. 2d 585, 2007 U.S. LEXIS 4536 (2007).

APPENDIX III

FILED January 28, 2008

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-11248

Ronald Curtis Chambers,

Petitioner - Appellant

v.

Nathaniel Quarterman, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent-Appellee

Appeal from the United States District Court
for the Northern District of Texas, Dallas

ON PETITION FOR REHEARING EN BANC

(Opinion 12/27/07, 5 Cir., _____, _____ F.3d _____)

Before JOLLY, SMITH, and WIENER, Circuit Judges.

PER CURIAM:

(X) Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehear ing is DENIED.

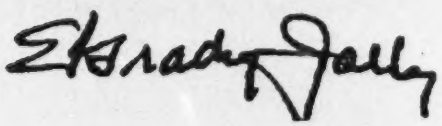
No member of the panel nor judge in regular active service of the court having requested that the court be

polled on Rehearing En Banc (FED . R . App . P . and 5TH CIR . R . 35), the Petition for Rehearing En Banc is DENIED.

( ) Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED.

The court having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service and not disqualified not having voted in favor (FED . R . APP . P . and 5TH CIR . R . 35), the Petition for Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:



United States Circuit Judge